

1 RICHARD E. ZUCKERMAN  
Principal Deputy Assistant Attorney General

2 HENRY C. DARMSTADTER  
3 Trial Attorney, Tax Division  
U.S. Department of Justice  
4 P.O. Box 683, Ben Franklin Station  
Washington, D.C. 20044-0683  
5 Telephone: (202) 307-6481  
Fax: (202) 307-0054  
6 Email: henry.c.darmstadter@usdoj.gov

7 *Attorneys for the United States of America*

8 STEVEN W. MYHRE  
Acting United States Attorney  
9 District of Nevada  
*Of Counsel*

11 UNITED STATES DISTRICT COURT

12 DISTRICT OF NEVADA

13 BANK OF AMERICA, N.A.,

14 Plaintiff,

15 v.

16 M. DIANE HUTTON-POTTS, SURVIVING  
TRUSTEE OF THE HUTTON-POTTS  
17 FAMILY TRUST DATED SEPTEMBER 25,  
1989; SECRETARY OF HOUSING AND  
18 URBAN DEVELOPMENT; DEPARTMENT  
OF TREASURY-INTERNAL REVENUE  
19 SERVICE,

20 Defendants.

Civil No.: 3:17-cv-00684-MMD-WGC

**JOINT MOTION FOR FORTY-FIVE  
DAY EXTENSION FOR UNITED  
STATES (IRS) TO RESPOND TO  
COMPLAINT**

FIRST REQUEST  
LR IA 6-1, 6-2 and 7-1

(Removed from the District Court for the  
State of Nevada, Douglas County, Case No.  
17-cv-0243)

21  
22 COMES now Plaintiff, Bank of America, N.A. and Defendant, United States of America, on  
23 behalf of the Internal Revenue Service, an agency of the Department of Treasury, by and through their  
24 undersigned counsel, and submit a Joint Motion to extend the time in which the United States has to

1 respond to the Complaint for a period of forty-five (45) days until February 8, 2018 and to continue  
2 the filing of the Joint Status Report until February 28, 2018:

3         1.       On October 20, 2017, the Bank of America, N.A. filed a civil action in the Douglas  
4 County District Court against M. Diane Hutton-Potts, surviving trustee of the Hutton-Potts Family  
5 Trust Dated September 25, 1989 (“Hutton-Potts”), the Secretary of Housing and Urban Development  
6 (“HUD”), and the Department of Treasury-Internal Revenue Service (“IRS”). The Plaintiff seeks to  
7 reform a deed of trust on real property in Douglas County due to an error in the legal description of the  
8 property as described in more detail in the Complaint. The Plaintiff also seeks declaratory relief that its  
9 deed of trust has priority over the interests of the other defendants, including the subject federal tax  
10 liens.

11         2.       The United States Attorney for the District of Nevada was served with a copy of the  
12 Summons and Complaint in the state court action on or about October 26, 2017.

13         3.       Defendant Hutton-Potts was served with a copy of the Summons and Complaint in the  
14 state court action on or about October 30, 2017.

15         4.       On November 20, 2017, the United States on behalf of the IRS, filed a Notice of  
16 Removal in the United States District Court for the District of Nevada (ECF No. 1).

17         5.       On December 7, 2017, Defendant HUD filed a Notice of Disclaimer of Interest (ECF  
18 No. 5).

19         6.       To date, Defendant Hutton-Potts has not responded to the Complaint or otherwise  
20 entered an appearance in either the State Court or District Court proceedings.

21         7.       The United States’ response to the Complaint is currently due by December 26, 2017.  
22 The Court has ordered that a Joint Status Report is due by December 21, 2017.

1           8.       By this Joint Motion, the parties seek a forty-five day extension until February 8, 2018  
2 in which the United States has to respond to the Complaint and until February 28, 2018 in which the  
3 parties have to file the Joint Status Report.

4           8.       The additional time will allow the parties to consider the relative priorities of the deed of  
5 trust and the tax liens and potentially enter into a stipulation minimizing the issues in dispute. The extent  
6 to which the Plaintiff made disbursements on the loan secured by the deed of trust prior to the filing of  
7 the notice of federal tax lien is not clear at this time.

8  
9 DATED: December 19, 2017

/s/Henry C. Darmstadter  
HENRY C. DARMSTADTER  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 683 Ben Franklin Station  
Washington, D.C. 20044-0683  
(202) 307-6481

*Of Counsel*  
STEVEN W. MYHRE  
Acting United States Attorney

Attorneys for the United States

15  
16 DATED: December 19, 2017

/s/ Kristan Lehtinen  
KRISTAN LEHTINEN, ESQ.  
Fidelity National Law Group  
8363 W. Sunset Road, Ste 120  
Las Vegas, NV 89113  
702-667-3000

Attorneys for Plaintiff

IT IS SO ORDERED:

21 William G. Cobb  
22 UNITED STATES MAGISTRATE JUDGE  
23

24 DATED: December 27, 2017.